S.B. Civil Writ Petition No. 6854/2003

Aziz Vs. Additional Civil Judge & Ors.

Date of Order :: 05.04.2005

HON'BLE MR. PRAKASH TATIA,J.

Mr. Sandeep Saruparia, for the petitioner.

Heard learned counsel for the petitioner. Perused the impugned order dated 16.1.2003.

It appears from the facts of the case that the suit has been filed in the trial Court as back as in the year 1977 or prior to that. The petitioner-plaintiffs submitted an application under Order 13 Rule 2 CPC after about five years on 1.2.2002 and prayed that one document he could not refer in the pleadings and could not file in time before the Court. It is submitted that the document was lying with his wife and, therefore he could not produce the document in time. The trial court rejected the application on a different ground.

It appears that the order under challenged can be well-examined by the appellate Court and appellate Court can find out whether there was sufficient cause for not filing the document in

time before the trial Court, when the trial Court has exercised jurisdiction within its jurisdiction and there appears to be no special circumstance for interfering with impugned order under Article 227 of the Constitution of India.

Accordingly, the writ petition is dismissed with liberty to the petitioner to challenge the order in appeal in case any occasion arises to the petitioner to do so.

[Prakash Tatia],J.

Praveen